

**WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP**

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November 28, 2005

**BY FEDERAL EXPRESS**

Judge Victor Marrero  
United States District Court  
Southern District of New York  
Suite 414  
United States Courthouse  
40 Centre Street  
New York, NY 10007

Re: 105 Street Associates, LLC v. Greenwich Insurance Company  
Index No.: 05-CV-9938

Dear Judge Marrero:

This firm represents the defendants in the above captioned matter.

Enclosed please find a courtesy copy of the Notice of Removal and the Corporate Disclosure filed on behalf of Greenwich Insurance Company.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



Jill Cadre

Cc: Donald Schneider, Esq.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**05 CV 9938**

105 STREET ASSOCIATES, LLC

) Index No.: 05-603783

) Plaintiff,

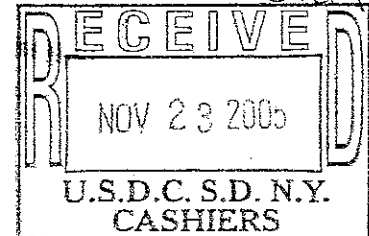
) **JUDGE MARRERO**

) -against-

) Notice of Removal

) GREENWICH INSURANCE COMPANY,

) Defendant.



TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK:

Defendants, GREENWICH INSURANCE COMPANY (hereinafter "GREENWICH"), by their attorneys, WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, respectfully submit as follows:

1. On October 24, 2005, the above-entitled action was commenced against defendants in the Supreme Court of the State of New York, County of New York, and is now pending in such court.
2. Pursuant to the insurance policy (WGG5001058) issued by GREENWICH, Plaintiff, 105 STREET ASSOCIATES, LLC, seeks financial damages allegedly sustained as a result of defendant's alleged wrongful disclaimer to defend and indemnify Plaintiff in an underlying action brought against Plaintiff on or about April 29, 2004, currently pending in Supreme Court, New York County.
3. On October 25, 2005, defendant GREENWICH was served with a summons and a complaint in the above-entitled action by delivery of copies of the summons and

complaint to defendant, GREENWICH, at their actual place of business in the State of Connecticut.

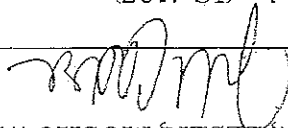
4. Upon information and belief, no further proceedings have been had in this action in New York County Supreme Court.
5. The amount in controversy in the above-entitled action, exclusive of interest and costs, exceeds \$75,000.
6. Plaintiff, 105 STREET ASSOCIATES, LLC is a citizen and resident of the County of New York, State of New York.
7. Defendant GREENWICH is a citizen and resident of the State of Connecticut.
8. This Court has original jurisdiction of the Federal Action pursuant to 28 USCA §1332, and the action may therefore be removed to this Court pursuant to 28 USCA §1441.
9. Copies of the summons and complaint served on defendant in the above-entitled action are annexed hereto as Exhibit "A".
10. This notice is filed with this Court within thirty (30) days after service on defendant of the summons and complaint in the above-entitled action.

WHEREFORE, defendant GREENWICH requests that the above-entitled action be removed from the New York County Supreme Court to this Court.

Dated: November 21, 2005

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

by:



Jill Cadre (JC 4127)

Attorneys for Defendant

150 East 42<sup>nd</sup> Street

New York, New York 10017-5639

(212) 490-3000

File No.: 06928.00226

TO: Donald F. Schneider  
Attorney for Plaintiff  
90 Broad Street, 6th Floor  
New York, NY 10004

212-265-2266



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

\_\_\_\_\_  
105 STREET ASSOCIATES, LLC,

Plaintiff,

-against-

GREENWICH INSURANCE COMPANY,  
\_\_\_\_\_  
Defendant.

Date Summons and Complaint  
filed: \_\_\_\_\_, 2005 :

Index No.

05603783

SUMMONS

Plaintiff designates New York  
County as the place of trial

The basis of venue is the principal place  
of business of each party and where  
the cause of action arose.

Plaintiff resides at  
2226 First Avenue  
County of New York

To the above-named Defendant

**FILED**  
OCT 24 2005  
NEW YORK  
COUNTY CLERK'S OFFICE

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to  
serve a copy of your answer, or, if the complaint is not served with this summons, to serve a  
notice of appearance, on the plaintiff's attorneys within 20 days after the service of this  
summons, exclusive of the day of service (or within 30 days after the service is complete if this

summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
October 17, 2005

SCHNEIDER GOLDSTEIN BLOOMFIELD LLP

By: 

Donald F. Schneider

Attorneys for Plaintiff

Office and P.O. Address:

90 Broad Street, 6<sup>th</sup> Floor

New York, New York 10004

(212) 255-2266

Defendant's address:

Greenwich Insurance Company

Seaview House

70 Seaview Avenue

Stamford, CT 06902

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

105 STREET ASSOCIATES, LLC,

Plaintiff,

-against-

GREENWICH INSURANCE COMPANY,

Defendant.

Index No. /05

**COMPLAINT**

Plaintiff 105 Street Associates LLC ("Plaintiff"), by its undersigned attorneys,  
Schneider Goldstein Bloomfield LLP, as and for its Complaint herein, alleges:

**THE PARTIES**

1. At all times relevant herein, Plaintiff was and still is a limited liability company duly organized and existing under and by virtue of the laws of the State of New York.
2. Upon information and belief, at all times relevant herein, Defendant Greenwich Insurance Company ("Greenwich") was and still is an insurance company organized and existing under the laws of the State of New York.
3. Greenwich conducts an insurance business in the State of New York.



**ADDITIONAL ALLEGATIONS APPLICABLE  
TO ALL CAUSES OF ACTION**

**The Insurance Policy**

4. Greenwich made, issued, and delivered to Plaintiff comprehensive commercial general liability insurance policy no. WGG5001058 on an occurrence basis (the "Greenwich Policy") for the period from April 15, 2002 to April 15, 2003 (the "Policy Period").

5. Plaintiff was an insured under the Greenwich Policy.

6. Plaintiff has duly performed all of the terms and conditions of the Greenwich Policy on its part to be performed.

**The Claim by Richard Conrad**

7. An individual named Richard Conrad claimed to have suffered injury during the Policy Period at 235 East 105<sup>th</sup> Street, New York, New York, a location specified in the Greenwich Policy.

8. Richard Conrad commenced a personal injury action against Plaintiff and others, entitled Conrad v. 105 Street Associates LLC, et al Index No. 105554/04 (the "Conrad Action").

9. Promptly upon learning of the alleged occurrence and claim by Richard Conrad, Plaintiff duly notified the insurance agent and Greenwich thereof and transmitted a copy of the Summons and Complaint in the Conrad Action.

10. The Conrad Action is within the scope of coverage under the Greenwich Policy.

11. The insurance coverage provided by the Greenwich Policy was in full force and effect all times relevant herein.

12. Greenwich has an obligation under the Greenwich Policy to defend and indemnify Plaintiff in connection with the Conrad Action.

13. Plaintiff demanded that Greenwich assume its responsibilities and obligations to it under the Greenwich Policy with respect to the Conrad Action.

14. Nonetheless, Greenwich wrongfully disclaimed any obligation to defend and indemnify Plaintiff in the Conrad Action, thereby breaching its obligations under the Greenwich Policy.

15. Plaintiff lacks an adequate remedy at law.

**FIRST CAUSE OF ACTION**

16. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 15 above as if fully set forth herein.

17. A justiciable controversy exists between Plaintiff and Greenwich. Plaintiff believes that it has fully complied with the Greenwich Policy and that Greenwich is obligated to defend and indemnify Plaintiff in connection with the Conrad Action. On the other hand, Greenwich asserts that it is not obligated to defend and indemnify Plaintiff with respect to the Conrad Action.

18. By reason of the foregoing, Plaintiff is entitled to a judgment declaring that Greenwich is obligated to fully insure, defend and indemnify Plaintiff in connection with the Conrad Action.

**SECOND CAUSE OF ACTION**

19. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 15 above as if fully set forth herein.

20. By reason of the foregoing, Plaintiff is entitled to a judgment directing and compelling Greenwich to fully comply with its defense and indemnity obligations with respect to the Conrad Action.

### THIRD CAUSE OF ACTION

21. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 15 above as if fully set forth herein.

22. As a result of Greenwich's wrongful refusal to defend Plaintiff in the Conrad Action, Plaintiff retained litigation counsel to defend the Conrad Action in order to protect its interests.

23. As a result of Greenwich's breach of its obligation to provide a defense to Plaintiff, Plaintiff has incurred and paid attorney's fees and expenses, and upon information and belief, will continue to incur and pay attorney's fees and expenses, in connection with the defense of the Conrad Action.

24. By reason of the foregoing, Plaintiff is entitled to damages, including the attorneys' fees and expenses it has incurred and paid, and upon information and belief, will continue to incur and pay, in connection with the Conrad Action, in an amount which will be proven at the trial of this action.

WHEREFORE, Plaintiff 105 Street Associates, LLC. demands judgment against Defendant Greenwich Insurance Company as follows:

(a) On the First Cause of Action, a judgment declaring the rights and obligations of the parties under the Greenwich Policy, including Greenwich's obligations to fully insure, defend and indemnify Plaintiff with respect to the Conrad Action;

(b) On the Second Cause of Action, a judgment directing and compelling Greenwich to fully comply with and fulfill its defense and indemnity obligations with respect to the Conrad Action;

(c) On the Third Cause of Action, damages in a sum that will be proven at the trial of this action; and

(d) Granting such other and further relief as to this Court may seem just and proper, including the costs and disbursements of this action.

Dated: New York, New York  
October 17, 2005

SCHNEIDER GOLDSTEIN BLOOMFIELD LLP

By: 

Donald F. Schneider  
Attorneys for Plaintiff  
Office and P.O. Address:  
90 Broad Street, 6<sup>th</sup> Floor  
New York, New York 10004  
(212) 265-2266

## UNITED STATES DISTRICT COURT / SOUTHERN DISTRICT OF NEW YORK

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105 STREET ASSOCIATES, LLC,

Plaintiff,

-against-

GREENWICH INSURANCE COMPANY,

Defendant.

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NOTICE OF REMOVAL

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WILSON, ELSEER, MOSKOWITZ, EDELMAN &amp; DICKER LLP

*Attorneys For* Defendant, GREENWICH INSURANCE COMPANY150 E. 42nd Street  
New York, New York 10017-5639  
(212) 490-3000

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NOT COMPARED  
WITH COPY FILED

NOV 23 2005

NEW YORK  
COUNTY CLERK'S OFFICENOT COMPARSED  
WITH COPY FILED

NOV 23 2005

NEW YORK  
COUNTY CLERK'S OFFICE

STATE OF NEW YORK )

SS:

COUNTY OF NEW YORK )

JILL CADRE, being duly sworn, deposes and says:

That deponent is not a party to the action, is over 18 years of age and resides in Yonkers, NY.

That on the 23 day of November, 2005 deponent served the within **NOTICE OF REMOVAL** upon:

DONALD F. SCHNEIDER  
Attorney for Plaintiff  
90 Broad Street, 6th Floor  
New York, NY 10004  
212-265-2266

the attorneys for the respective parties in this action, at the above address designated by said attorneys for that purpose by depositing same, enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.

Bill Mure

Sworn to before me this

23 day of November, 2005.

Lauren Rocker

**LAUREN ROCKLIN**  
Notary Public, State of New York  
No. 02RO6075371  
Qualified in New York County  
Commission Expires June 3, 2006

UNITED STATE DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
105 STREET ASSOCIATES, LLC

a domestic corporation,

Civil Action

Index No.: 05-603783

Plaintiff,

vs.

GREENWICH INSURANCE COMPANY

a foreign corporation,

**DEFENDANT,**  
**GREENWICH**  
**INSURANCE COMPANY'S**  
**CORPORATE DISCLOSURE**  
**STATEMENT**

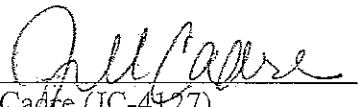
Defendant.

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Defendant, GREENWICH INSURANCE COMPANY, by and through its attorneys, WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER, LLP, hereby files its Corporate Disclosure Statement in compliance with the provisions of Rule 7.1, Federal Rules of Civil Procedure:

Defendant, GREENWICH INSURANCE COMPANY, with its principal place of business in Stamford, Connecticut, is not a publicly held corporation.

A supplemental disclosure statement will be filed upon any change in the information provided therein.

Dated: New York, New York  
November 21, 2005

By:   
Jill Cadre (JC-4127)  
WILSON, ELSEER, MOSKOWITZ,  
EDELMAN & DICKER LLP  
Attorneys for Defendant  
150 East 42nd Street  
New York, New York 10017-5639  
(212) 490-3000  
File No.: 06928.00226



STATE OF NEW YORK     )  
                                  ss.:  
COUNTY OF NEW YORK    )

JILL CADRE, being duly sworn, deposes and says:

That deponent is not a party to the action, is over 18 years of age and resides in Yonkers, NY.

That on the 23 day of November, 2005 deponent served the within **CORPORATE DISCLOSURE STATEMENT** upon:

DONALD F. SCHNEIDER  
Attorney for Plaintiff  
90 Broad Street, 6th Floor  
New York, NY 10004  
212-265-2266

the attorneys for the respective parties in this action, at the above address designated by said attorneys for that purpose by depositing same, enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York.



Sworn to before me this

23 day of November, 2005.



**LAUREN ROCKLIN**  
Notary Public, State of New York  
No. 02RO6075371  
Qualified in New York County  
Commission Expires June 3, 2006

Index No. 05-603783

Jill Cadre-2775  
06928.00226

UNITED STATES DISTRICT COURT / SOUTHERN DISTRICT OF NEW YORK

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105 STREET ASSOCIATES, LLC,

Plaintiff,

-against-

GREENWICH INSURANCE COMPANY,

Defendant.

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**CORPORATE DISCLOSURE STATEMENT**

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**WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP**

*Attorneys For* Defendant, **GREENWICH INSURANCE COMPANY**

150 E. 42nd Street  
New York, New York 10017-5639  
(212) 490-3000

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